



# House of Representatives

## File No. 813

General Assembly

January Session, 2017

**(Reprint of File No. 125)**

Substitute House Bill No. 7013  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 31, 2017

***AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE  
COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE  
COMPANIES AS DOMESTIC SURPLUS LINES INSURERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective July 1, 2017*) (a) A domestic insurance  
2       company that has policyholder surplus of at least fifteen million  
3       dollars may, pursuant to a resolution adopted by its board of directors  
4       and with the approval of the Insurance Commissioner, be designated  
5       as a domestic surplus lines insurer. Unless otherwise provided by law,  
6       all financial and solvency requirements imposed under chapter 698 of  
7       the general statutes on a domestic insurer authorized to do insurance  
8       business in this state shall apply to a domestic surplus lines insurer.

9       (b) A domestic surplus lines insurer (1) shall be considered an  
10      unauthorized insurer that is eligible to write surplus lines insurance  
11      coverage in this state, (2) shall, with respect to surplus lines insurance  
12      written in this state, be considered a nonadmitted insurer under 15  
13      USC 8206, as amended from time to time, (3) shall only write surplus  
14      lines insurance in this state in accordance with the provisions of

15 chapter 701d of the general statutes from a surplus lines broker  
16 licensed under section 38a-794 of the general statutes, and (4) a  
17 domestic surplus lines insurer may write surplus lines insurance in  
18 any other jurisdiction in which the insurer is eligible to write surplus  
19 lines insurance in accordance with the requirements of that  
20 jurisdiction.

21 (c) Surplus lines insurance written by a domestic surplus lines  
22 insurer shall be (1) subject to the tax imposed under section 38a-743 of  
23 the general statutes, and (2) exempt from the tax imposed under  
24 section 12-202 of the general statutes, as amended by this act.

25 (d) Surplus lines insurance policies issued by a domestic surplus  
26 lines insurer in this state shall not be subject to (1) the protection of the  
27 Connecticut Insurance Guaranty Association or the provisions of  
28 sections 38a-836 to 38a-853, inclusive, of the general statutes, and (2)  
29 any requirements relating to rates, rating plans, policy forms, policy  
30 cancellation and policy nonrenewal, in the same manner and to the  
31 same extent as surplus lines insurance policies issued by a surplus  
32 lines insurer domiciled in another state.

33 Sec. 2. Section 38a-1 of the general statutes is repealed and the  
34 following is substituted in lieu thereof (*Effective July 1, 2017*):

35 Terms used in this title, unless it appears from the context to the  
36 contrary, shall have a scope and meaning as set forth in this section.

37 (1) "Affiliate" or "affiliated" means a person that directly, or  
38 indirectly through one or more intermediaries, controls, is controlled  
39 by or is under common control with another person.

40 (2) "Alien insurer" [is defined in subparagraph (A) of subdivision  
41 (11) of this section] means any insurer that has been chartered by or  
42 organized or constituted within or under the laws of any jurisdiction  
43 or country without the United States.

44 (3) "Annuities" means all agreements to make periodical payments

45 where the making or continuance of all or some of the series of the  
46 payments, or the amount of the payment, is dependent upon the  
47 continuance of human life or is for a specified term of years. This  
48 definition does not apply to payments made under a policy of life  
49 insurance.

50 (4) "Commissioner" means the Insurance Commissioner.

51 (5) "Control", "controlled by" or "under common control with"  
52 means the possession, direct or indirect, of the power to direct or cause  
53 the direction of the management and policies of a person, whether  
54 through the ownership of voting securities, by contract other than a  
55 commercial contract for goods or nonmanagement services, or  
56 otherwise, unless the power is the result of an official position with the  
57 person.

58 (6) "Domestic insurer" [is defined in subparagraph (B) of  
59 subdivision (11) of this section] means any insurer that has been  
60 chartered by, incorporated, organized or constituted within or under  
61 the laws of this state.

62 (7) "Domestic surplus lines insurer" means any domestic insurer  
63 that has been authorized by the commissioner to write surplus lines  
64 insurance.

65 [(7)] (8) "Foreign country" means any jurisdiction not in any state,  
66 district or territory of the United States.

67 [(8)] (9) "Foreign insurer" [is defined in subparagraph (C) of  
68 subdivision (11) of this section] means any insurer that has been  
69 chartered by or organized or constituted within or under the laws of  
70 another state or a territory of the United States.

71 [(9)] (10) "Insolvency" or "insolvent" means, for any insurer, that it is  
72 unable to pay its obligations when they are due, or when its admitted  
73 assets do not exceed its liabilities plus the greater of: (A) Capital and  
74 surplus required by law for its organization and continued operation;

75 or (B) the total par or stated value of its authorized and issued capital  
76 stock. For purposes of this subdivision "liabilities" shall include but not  
77 be limited to reserves required by statute or by regulations adopted by  
78 the commissioner in accordance with the provisions of chapter 54 or  
79 specific requirements imposed by the commissioner upon a subject  
80 company at the time of admission or subsequent thereto.

81 [(10)] (11) "Insurance" means any agreement to pay a sum of money,  
82 provide services or any other thing of value on the happening of a  
83 particular event or contingency or to provide indemnity for loss in  
84 respect to a specified subject by specified perils in return for a  
85 consideration. In any contract of insurance, an insured shall have an  
86 interest which is subject to a risk of loss through destruction or  
87 impairment of that interest, which risk is assumed by the insurer and  
88 such assumption shall be part of a general scheme to distribute losses  
89 among a large group of persons bearing similar risks in return for a  
90 ratable contribution or other consideration.

91 [(11)] (12) "Insurer" or "insurance company" includes any person or  
92 combination of persons doing any kind or form of insurance business  
93 other than a fraternal benefit society, and shall include a receiver of  
94 any insurer when the context reasonably permits. [When modified as  
95 follows, the term has the following meanings:

96 (A) "Alien insurer" means any insurer that has been chartered by or  
97 organized or constituted within or under the laws of any state or  
98 country without the United States.

99 (B) "Domestic insurer" means any insurer that has been chartered  
100 by, incorporated, organized or constituted within or under the laws of  
101 this state.

102 (C) "Foreign insurer" means any insurer that has been chartered by  
103 or organized or constituted within or under the laws of another state  
104 or a territory of the United States.

105 (D) "Mutual insurer" means any insurance company without capital

106 stock, the managing directors or officers of which are elected by its  
107 members.

108 (E) "Unauthorized insurer" or "nonadmitted insurer" means an  
109 insurer that has not been granted a certificate of authority by the  
110 commissioner to transact the business of insurance in this state or an  
111 insurer transacting business not authorized by a valid certificate.]

112 [(12)] (13) "Insured" means a person to whom or for whose benefit  
113 an insurer makes a promise in an insurance policy. The term includes  
114 policyholders, subscribers, members and beneficiaries. This definition  
115 applies only to the provisions of this title and does not define the  
116 meaning of this word as used in insurance policies or certificates.

117 [(13)] (14) "Life insurance" means insurance on human lives and  
118 insurances pertaining to or connected with human life. The business of  
119 life insurance includes granting endowment benefits, granting  
120 additional benefits in the event of death by accident or accidental  
121 means, granting additional benefits in the event of the total and  
122 permanent disability of the insured, and providing optional methods  
123 of settlement of proceeds. Life insurance includes burial contracts to  
124 the extent provided by section 38a-464.

125 (15) "Mutual insurer" means any insurer without capital stock, the  
126 managing directors or officers of which are elected by its members.

127 [(14)] (16) "Person" means an individual, a corporation, a  
128 partnership, a limited liability company, an association, a joint stock  
129 company, a business trust, an unincorporated organization or other  
130 legal entity.

131 [(15)] (17) "Policy" means any document, including attached  
132 endorsements and riders, purporting to be an enforceable contract,  
133 which memorializes in writing some or all of the terms of an insurance  
134 contract.

135 [(16)] (18) "State" means any state, district, or territory of the United

136 States.

137 [(17)] (19) "Subsidiary" of a specified person means an affiliate  
138 controlled by the person directly, or indirectly through one or more  
139 intermediaries.

140 [(18)] (20) "Unauthorized insurer" [is defined in subparagraph (E) of  
141 subdivision (11) of this section] or "nonadmitted insurer" means an  
142 insurer that has not been granted a certificate of authority by the  
143 commissioner to transact the business of insurance in this state or an  
144 insurer transacting business not authorized by a valid certificate.

145 [(19)] (21) "United States" means the United States of America, its  
146 territories and possessions, the Commonwealth of Puerto Rico and the  
147 District of Columbia.

148 Sec. 3. Section 12-202 of the general statutes is repealed and the  
149 following is substituted in lieu thereof (*Effective July 1, 2017*):

150 (a) Each domestic insurance company shall, annually, pay a tax on  
151 the total net direct premiums received by such company during the  
152 calendar year next preceding from policies written on property or risks  
153 located or resident in this state. The rate of tax on all net direct  
154 insurance premiums received on and after January 1, 1995, shall be one  
155 and three-quarters per cent. The franchise tax imposed under this  
156 section on premium income for the privilege of doing business in the  
157 state is in addition to the tax imposed under chapter 208. In the case of  
158 any local domestic insurance company the admitted assets of which as  
159 of the end of an income year do not exceed ninety-five million dollars,  
160 eighty per cent of the tax paid by such company under chapter 208  
161 during such income year reduced by any refunds of taxes paid by such  
162 company and granted under said chapter within such income year and  
163 eighty per cent of the assessment paid by such company under section  
164 38a-48, as amended by this act, during such income year shall be  
165 allowed as a credit in the determination of the tax under this chapter  
166 payable with respect to total net direct premiums received during such  
167 income year, provided that these two credits shall not reduce the tax

168 under this chapter to less than zero, and provided further in the case of  
169 a local domestic insurance company [which] that is a member of an  
170 insurance holding company system, as defined in section 38a-129,  
171 these credits shall apply if the total admitted assets of the local  
172 domestic insurance company and its affiliates, as defined in said  
173 section, do not exceed two hundred fifty million dollars or, in the  
174 alternative, in the case of a local domestic insurance company [which]  
175 that is a member of an insurance holding company system, [as defined  
176 in section 38a-129,] these credits shall apply only if total direct written  
177 premiums are derived from policies issued or delivered in  
178 Connecticut, on risk located in Connecticut and, as of the end of the  
179 income year the company and its affiliates have admitted assets minus  
180 unpaid losses and loss adjustment expenses that are also discounted  
181 for federal and state tax purposes and [which] that for [said] such local  
182 domestic insurance company and its affiliates, as defined in [said]  
183 section 38a-129, do not exceed two hundred fifty million dollars.

184 (b) Notwithstanding the provisions of subsection (a) of this section,  
185 the tax shall not apply to surplus lines insurance policies issued by  
186 domestic insurance companies designated as surplus lines insurers  
187 pursuant to section 1 of this act.

188 Sec. 4. Subsection (a) of section 38a-48 of the general statutes is  
189 repealed and the following is substituted in lieu thereof (*Effective July*  
190 *1, 2017*):

191 (a) On or before June thirtieth, annually, the Commissioner of  
192 Revenue Services shall render to the Insurance Commissioner a  
193 statement certifying the amount of taxes or charges imposed on each  
194 domestic insurance company or other domestic entity under chapter  
195 207 on business done in this state during the preceding calendar year.  
196 The statement for local domestic insurance companies shall set forth  
197 the amount of taxes and charges before any tax credits allowed as  
198 provided in subsection (a) of section 12-202, as amended by this act.

199 Sec. 5. Subsection (d) of section 38a-48 of the general statutes is

200 repealed and the following is substituted in lieu thereof (*Effective July*  
201 *1, 2017*):

202 (d) For purposes of calculating the amount of payment under  
203 section 38a-47, as well as the amount of the assessments under this  
204 section, the "total taxes imposed on all domestic insurance companies  
205 and other domestic entities under chapter 207" shall be based upon the  
206 amounts shown as payable to the state for the calendar year on the  
207 returns filed with the Commissioner of Revenue Services pursuant to  
208 chapter 207; with respect to calculating the amount of payment and  
209 assessment for local domestic insurance companies, the amount used  
210 shall be the taxes and charges imposed before any tax credits allowed  
211 as provided in subsection (a) of section 12-202, as amended by this act.

This act shall take effect as follows and shall amend the following sections:

| Section 1 | <i>July 1, 2017</i> | New section |
|-----------|---------------------|-------------|
| Sec. 2    | <i>July 1, 2017</i> | 38a-1       |
| Sec. 3    | <i>July 1, 2017</i> | 12-202      |
| Sec. 4    | <i>July 1, 2017</i> | 38a-48(a)   |
| Sec. 5    | <i>July 1, 2017</i> | 38a-48(d)   |



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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### ***OFA Fiscal Note***

#### ***State Impact:***

| Agency Affected               | Fund-Effect       | FY 18 \$  | FY 19 \$  |
|-------------------------------|-------------------|-----------|-----------|
| Resources of the General Fund | GF - Revenue Gain | Potential | Potential |

Note: GF=General Fund

***Municipal Impact:*** None

#### ***Explanation***

The bill allows the insurance commissioner to designate a domestic insurance company as a “domestic surplus lines insurer” and subjects any such company to a 4% gross premiums tax. This results in a potential revenue gain beginning in FY 18 to the extent that an eligible domestic insurer seeks such status and the insurance commissioner allows it.

House “A” makes a number of clarifying and technical changes that do not result in any fiscal impact.

#### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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**OLR Bill Analysis****sHB 7013 (as amended by House "A")\******AN ACT ESTABLISHING STANDARDS TO ALLOW THE INSURANCE COMMISSIONER TO DESIGNATE CERTAIN DOMESTIC INSURANCE COMPANIES AS DOMESTIC SURPLUS LINES INSURERS.*****SUMMARY**

This bill allows the insurance commissioner to designate a domestic insurance company as a “domestic surplus lines insurer” subject to certain conditions. To be so designated, the insurer must have a policyholder surplus (i.e., net worth) of at least \$15 million and be acting pursuant to a board of directors’ resolution. Such a designation allows the insurer to market surplus lines insurance in Connecticut. Under current law, a domestic insurer cannot do so.

Surplus lines insurance, also referred to as nonadmitted insurance, provides coverage for high risk needs that is not available in the traditional, licensed (i.e., admitted) market.

The bill also makes technical and conforming changes.

\*House Amendment “A” specifies that (1) domestic surplus lines insurers may write surplus lines insurance in other jurisdictions where eligible and (2) Connecticut’s financial and solvency requirements apply to a domestic surplus lines insurer unless otherwise provided by law. It also makes technical changes.

EFFECTIVE DATE: July 1, 2017

**DOMESTIC SURPLUS LINES INSURER**

Under the bill, surplus lines insurance policies written by a domestic surplus lines insurer are subject to a 4% gross premium tax,

but are exempt from the 1.75% premium tax that domestic insurers pay. Additionally, the bill specifies that Connecticut's financial and solvency requirements apply to a domestic surplus lines insurer unless otherwise provided by law.

Under the bill, a domestic surplus lines insurer can only write policies in accordance with state surplus lines laws and from a surplus lines broker licensed by the Insurance Department. One may also write policies in other jurisdictions where eligible.

The bill specifies that a domestic surplus lines insurer is a nonadmitted or unauthorized insurer under state law and for purposes of the 2010 federal Nonadmitted and Reinsurance Reform Act (15 U.S.C. § 8206). (The federal law requires states to adopt uniform requirements and procedures for allocating and collecting premium taxes on nonadmitted insurance policies.)

Under the bill, surplus lines insurance issued in the state by a domestic surplus lines insurer is not covered by the Connecticut Insurance Guaranty Association Act. (The guaranty association protects insurance consumers from financial loss in the case of an insurance company's insolvency.) The bill also specifies that domestic surplus lines insurance is exempt from requirements for rates, rating plans, policy forms, cancellation, and nonrenewal to the same extent as surplus lines insurance issued by an insurer domiciled in another state.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea 18      Nay 2      (03/07/2017)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea 45      Nay 0      (05/08/2017)